

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
FILE NO. 7:23-CV-1625-M-RJ

BRIANA PAULL, individually;  
BRIANA PAULL, as guardian of  
A.P., A.P., R.K. Jr.,  
And A.F., her minor children;  
And BRIANA PAULL, as class  
representative on behalf of the class  
defined herein,

Plaintiffs,

v.

THE TOWN OF HOLLY RIDGE;  
HOLLY RIDGE HOUSING  
AUTHORITY; THE PENDERGRAPH  
COMPANIES, LLC; PENDERGRAPH  
DEVELOPMENT, LLC; PENDERGRAPH  
MANAGEMENT, LLC; FRANKIE W.  
PENDERGRAPH; and  
JOHN DOE CONTRACTORS 1 through  
10,

Defendants.

**MOTION TO DISMISS AND  
ALTERNATIVE MOTION FOR  
JUDGMENT ON THE  
PLEADINGS**

NOW COMES the Town of Holly Ridge, North Carolina (the "Town"), by and through the undersigned counsel of record, preserving all defenses and immunities, and respectfully moves the Court for entry of an Order dismissing the claims made against it pursuant to Rules 12(b)(1) and (6) and, alternatively, for Judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. Plaintiffs' claims are subject to dismissal for the following reasons, among others:

- Plaintiffs' claims against the Holly Ridge Housing Authority ("HRHA") should be dismissed because the HRHA is dissolved and does not exist.
- Plaintiffs' claims against the Town are barred by the doctrine of Governmental Immunity and should be dismissed.
- Plaintiffs' claims against the Town, contained in count VII of the purported First Amended Class Action Complaint, should be dismissed because municipalities are immune from punitive damage claims.
- Plaintiffs' claims against the Town, contained in count II of the purported First Amended Class Action Complaint, should be dismissed because municipalities are immune from claims made under N.C.G.S. §75-1.1 *et seq.*
- The documents referenced in the Amended Complaint, including but not limited to the contracts with Co-Defendant Pendergraph Management, LLC, establish that the Town is not legally responsible for the conditions giving rise to the claims made by the Plaintiffs.
- Any and all claims made against the Town by certain purported class action Plaintiffs, specifically including but not necessarily limited to Candace Wood, John Peterson, Xalexus Cummings, Victoria Blystone, Amanda Riddle and April Denning, should be dismissed as barred by their execution of the Lease Cancellation and Release Agreement with the Town, and the acceptance of the good and valuable consideration referenced therein.

The bases for these motions are explained in greater detail in the Memorandum of Law filed with this Court.

WHEREFORE, based upon the foregoing, as well as all other matters that appear of Record to this Court, the Defendant Town of Holly Ridge, North Carolina respectfully moves the Court for an Order dismissing the Plaintiffs' claims, or granting judgment on the pleadings, and granting such other and further relief as is deemed just and proper.

This the 22d day of February, 2024.

CROSSLEY McINTOSH COLLIER HANLEY & EDES, PLLC

/s/ Clay Allen Collier

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*Attorneys for the Town of Holly Ridge*

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2024, I electronically filed the foregoing Motion to Dismiss and Alternative Motion for Judgment on the Pleadings with the Clerk of Court using the CM/ECF system, which will electronically serve the following counsel for the parties:

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